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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Qwest Communications International, Inc.	)	
Consolidated Application for Authority to	)	
Provide In-Region, InterLATA Services in	)	WC Docket No. 02-189
Montana, Utah, Washington and Wyoming	)	
	)	

**DECLARATION OF JOHN F. FINNEGAN  
ON BEHALF OF AT&T CORP.**

August 1, 2002

## TABLE OF CONTENTS

	<u>Page</u>
I. PURPOSE AND SUMMARY OF DECLARATION .....	2
II. QWEST'S PERFORMANCE DATA ARE NOT TRUSTWORTHY.....	7
A. The Liberty PMA Did Not Validate the Accuracy of Qwest's Data.....	7
B. The Liberty Data Reconciliation Process Did Not Validate the Accuracy of Qwest's Data. ....	10
1. Limitation in Scope.....	10
2. Study Objective.....	13
3. Failure to Render Conclusion .....	14
4. Lack of Military Style Testing .....	16
5. Failure to Issue Exceptions .....	31
C. The KPMG Data Reconciliation Process Did Not Validate the Accuracy of Qwest's Data. ....	34
D. The CGE&Y PMA Did Not Validate the Accuracy of Qwest's Data. ....	43
E. The Current PIDs Omit Important Measures. ....	47
F. Qwest's Performance Results are Misleading. ....	53
III. QWEST'S COMMERCIAL DATA SHOW THAT IT HAS NOT MET ITS SECTION 271 OBLIGATIONS. ....	58
A. Region-Wide Data .....	58
B. Montana .....	60
C. Utah.....	63
D. Washington .....	73
E. Wyoming.....	77
IV. QWEST'S PERFORMANCE ASSURANCE PLANS CANNOT DETER BACKSLIDING.....	80
A. Qwest's Inaccurate Data Fatally Compromise the Remedy Plans. ....	83
B. The Remedy Plans Omit Important Measures. ....	84
C. No Remedy Plan Is In Place In Wyoming.....	85
D. The Washington QPAP Permits Qwest to Challenge the Authority of the State.....	97
E. The Montana QPAP Permits Qwest to Challenge the Authority of the State.....	101
CONCLUSION.....	104

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**DECLARATION OF JOHN F. FINNEGAN  
ON BEHALF OF AT&T CORP.**

1. My name is John F. Finnegan, and I am a Senior Policy Witness employed by AT&T. My business address is 1875 Lawrence Street, Suite 1500, Denver, Colorado 80202.

2. My education and relevant work experience are as follows. I have a B.S. in Engineering from Rutgers College of Engineering and an M.B.A. from the University of Denver. I have worked for AT&T for 19 years. After graduating from Rutgers, I spent the next two years with Combustion Engineering in Valley Forge, PA as a Project Engineer. In 1983, I joined AT&T as a purchased product engineer. Over the next 12 years, I spent time with AT&T in a variety of engineering, quality management, sales and marketing positions. Almost half of that time was spent leading a supplier quality management organization.

3. In 1995, I joined the New Markets Development Organization, (the immediate predecessor of the Western Region Local Services Organization) and was one of the

first employees in the Western Region to explore the opportunities associated with providing local exchange services. In 1996, I began in my current position. Recently, I have concentrated my work efforts on collaborating with Qwest, CLECs and state regulators on understanding and evaluating Qwest's operational support system ("OSS"). In fact, I have been AT&T's representative in the Arizona and the Regional Oversight Committee's ("ROC") OSS tests since their inception. I am a frequent panelist on ROC OSS discussions, and have testified in State 271 proceedings in Colorado, Washington, North Dakota, South Dakota, Nebraska, Oregon, and New Mexico.

#### **I. PURPOSE AND SUMMARY OF DECLARATION**

4. The purpose of this declaration is to respond to Qwest's allegations that: (1) its performance data are accurate and reliable and demonstrate nondiscriminatory performance; and (2) its performance assurance plans will prevent any backsliding in the wake of Section 271 relief. Plainly, Qwest has not met and cannot meet its burden of proof on these issues despite the claims of its witnesses.

5. First, as described in Part II, Qwest's data are not accurate, complete or reliable. Although Qwest maintains that the accuracy of its data has been confirmed by the Performance Measurement Audit conducted by the Liberty Consulting Group ("Liberty PMA"), Liberty's separate data reconciliation, the data reconciliation conducted by KPMG during the ROC OSS test, and the Performance Measurement Audit conducted by Cap Gemini Ernest & Young ("CGE&Y PMA"), its reliance on these audits and processes is misplaced.

6. During the Liberty PMA, Liberty never verified the accuracy of Qwest's raw data inputs. Liberty conducted that audit based on the assumption that Qwest's raw data

inputs were accurate and evaluated whether Qwest properly adhered to the Performance Indicator Definitions ("PIDs") when calculating performance results from the raw data. As a consequence, the Liberty PMA audit cannot and does not demonstrate that Qwest's reported performance results are somehow trustworthy.

7. Qwest's attempt to seek refuge in the Liberty data reconciliation is equally unavailing. The Liberty data reconciliation was extremely limited in geographical, product, measurement and temporal scope. Liberty's study involved an examination of data provided by three CLECs from only two of the states (Washington and Utah) that are the subject of Qwest's Application. Only seven measures covering three products were examined during this process. Further, the data reviewed were, in large measure, generated from January through June 2001. Given the numerous restrictions and limitations in the Liberty data reconciliation process, that study cannot reasonably be deemed to constitute a rigorous and comprehensive analysis of the accuracy of Qwest's performance data.

8. Even leaving aside these limitations in the scope of Liberty's analysis, the Liberty data reconciliation is plainly inadequate to establish the completeness, accuracy and reliability of Qwest's performance data. Liberty's study suffers from serious procedural and substantive flaws. The study objective inappropriately placed the burden on CLECs to prove that Qwest's data were inaccurate. Furthermore, the data reconciliation is substantively flawed because Liberty failed to resolve conflicting interpretations of the parties regarding performance measurement issues and closed observations and exceptions without confirming whether Qwest had actually eliminated the errors in its performance monitoring and reporting processes. However, even Liberty's flawed study reveals that Qwest's performance monitoring and reporting processes are error-ridden.

9. The KPMG data reconciliation during the ROC OSS test also lends no support to Qwest's claims of data accuracy. During that process, KPMG was unable to determine whether Qwest satisfied numerous test criteria. Indeed, in many instances, because the test criteria were governed by diagnostic measures which have no performance standards, KPMG calculated performance results without reaching any decisions as to whether Qwest passed the test criteria. KPMG was also unable to reach other findings because of insufficient information or because Qwest refused to be subjected to additional testing. In all events, even the limited KPMG data reconciliation process revealed that Qwest's excessive reliance on manual processing is at the root cause of numerous errors in its performance monitoring and reporting processes.

10. The CGE&Y PMA conducted during the Arizona third party OSS test is equally insufficient to prove the accuracy and reliability of Qwest's data. Just as the Liberty PMA, the CGE&Y PMA did not test the accuracy of Qwest's raw data. The CGE&Y PMA relied on an assumption that Qwest's input data were accurate and determined whether Qwest properly complied with the PIDs when calculating performance results. The Arizona Master Test Plan ("MTP") and Test Standards Document ("TSD") contemplated that the accuracy of Qwest's raw data would be assessed by comparing Qwest's raw data to that collected from the Pseudo-CLEC during Functionality and Capacity testing. However, CGE&Y's ability to evaluate the accuracy of Qwest's input data was fatally compromised by the failure of the testers to obtain all of the data from the Pseudo-CLEC during those tests.

11. Part II also explains that the performance measurement plans on which Qwest relies to support its Application are incomplete, and that Qwest's performance results are otherwise misleading. Qwest's current PIDs do not include measures that are important in

assessing performance, including a measure on service order. Additionally, Qwest's performance results are also misleading because they exclude CLEC orders held and rejected under its Build/Hold policy.

12. Third, Part III explains that, even Qwest's own inadequate commercial data, coupled with the KPMG OSS test, show that it has not met its statutory obligations. The pool of evidence shows that Qwest has unacceptably high rejection rates and unacceptably low flow-through rates that increase the risks of delays and errors in the provisioning process. The weight of data also shows that Qwest fails to issue status notices in a timely manner, fails to provision CLEC orders at parity with its retail orders, and discriminates against CLECs in the maintenance and repair and billing processes.

13. Invariably, when confronted with its own performance data showing performance failures, Qwest offers a host of rationalizations or resorts to promises to show that improved future performance should be fully expected. These excuses, however, are internally inconsistent, baseless, and self-serving. And, in all events, Qwest's unfulfilled promises of future compliance have no probative value in the context of this proceeding.

14. Fourth, Part IV explains that the Performance Assurance Plans ("PAPs") on which Qwest relies cannot serve to deter backsliding in the wake of any Section 271 relief. Where, as here, the evidence shows that Qwest's performance data are unreliable and metrics that are important to competitive entry are omitted from its plans, the entire performance enforcement scheme is fatally compromised. For this reason, the performance remedy plans in every State included in Qwest's Application cannot serve as effective deterrents against anticompetitive conduct. But even if Qwest's performance data were somehow reliable and comprehensive --



and they are not – structural defects in these plans render them wholly inadequate to assure future statutory compliance.

15. Significantly, there is *no* performance assurance plan presently in place in Wyoming. As a result, Qwest's Application seeking authority to provide long distance services in Wyoming is premature. In this regard, after Qwest repeatedly disregarded the orders of the Wyoming Public Service Commission ("WPSC") directing it to eliminate the flawed provisions in its proposed plan, the WPSC ultimately rejected Qwest's proposed plan, finding that it was contrary to the public interest. Circumventing the State process, Qwest now entreats this Commission to bless its proposed plan that is riddled with defective provisions that were explicitly rejected by the WPSC. The Commission must and should decline that invitation.

16. In addition, the Washington and Montana QPAPs permit Qwest to challenge the authority of the States to implement changes to the plans. As a result, these QPAPs will invite protracted litigation in which Qwest could question the authority of the States to impose any changes to the QPAPs. Given Qwest's public statements denouncing the authority of the States to impose any changes to the QPAPs, the threat of such protracted litigation is not illusory. Moreover, because these plans permit Qwest to mount such legal challenges, the plans can effectively become static documents that will never reflect the dynamism in the telecommunications market as this Commission has envisioned.

17. For all of these reasons, Qwest has not satisfied and cannot satisfy its burden of proving that its performance data are accurate and show checklist compliance, and that its performance enforcement plans meet the public interest standards under Section 271.

**II. QWEST'S PERFORMANCE DATA ARE NOT TRUSTWORTHY.**

18. On the basis of the current record, Qwest cannot meet its burden of demonstrating that its data are “meaningful, accurate and reproducible,” a fundamental showing in all prior approved 271 applications. *Texas 271 Order* ¶ 428; *Kansas/Oklahoma 271 Order* ¶ 278. Qwest contends that the Commission can confidently rely on Qwest’s commercial performance reports for four reasons. First, Qwest states that, during an audit of Qwest’s performance under the Performance Indicator Definitions (“PIDs”), Liberty found that Qwest’s data accurately capture its actual performance. Williams Decl. ¶ 8 (footnote omitted). Second, Qwest contends that, during a separate data reconciliation process, Liberty once again found that Qwest’s performance data results are reliable. *Id.* ¶ 10 (footnote omitted). Third, Qwest maintains that, during another data reconciliation process, KPMG verified the accuracy of Qwest’s data. *Id.* ¶¶ 55, n. 36. Fourth, Qwest asserts that the CGE&Y PMA also concluded that Qwest’s data are reliable. Williams Decl. ¶ 9. Qwest is wrong on all counts.

**A. The Liberty PMA Did Not Validate the Accuracy of Qwest’s Data.**

19. Qwest contends that the Liberty PMA, which culminated in the issuance of a final report on September 25, 2001, confirmed that “the audited performance measures accurately and reliably report actual Qwest performance.” Williams Decl. ¶8 (footnote omitted). Qwest’s reliance on the Liberty PMA to demonstrate the reliability of its performance data is misplaced.

20. The Regional Oversight Committee (“ROC”), which is comprised of thirteen of the fourteen states<sup>1</sup> in the Qwest region, requested Liberty to perform an audit of the

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<sup>1</sup> Arizona did not participate in the ROC.

metrics used to calculate Qwest's performance results. Liberty's Final Report on the Audit of Qwest's Performance Measures ("Liberty PMA Report") states that the Liberty PMA was designed to<sup>2</sup> :

- validate that Qwest's measurement of performance is in the manner prescribed by the Performance Indicator Definition (PID) and is reliable;
- compare and assess retail and wholesale operations processes in areas material to serving CLECs, and
- verify that, where required, comparable wholesale and retail processes will by nature of their design and operation provide service at parity.

21. During this audit, Liberty purportedly reviewed Qwest's performance data collection and processes, analyzed sample data sets to assess whether Qwest's performance data collection and monitoring processes functioned as designed, and independently calculated "performance measures to corroborate the adequacy of the processes that measure performance against explicit standards and measures." *Id.* at 1. In broadly describing the Liberty PMA, as well as the other audits and data reconciliation processes on which it relies in its Application, Qwest contends that this audit "confirm[ed] the accuracy of the inputs (transaction raw data) to Qwest's performance reports." Williams Decl. ¶ 12. The Liberty PMA did nothing of the sort.

22. During the Liberty PMA, Liberty assumed that Qwest's input raw data were accurate.<sup>3</sup> Starting from that basic assumption, Liberty then assessed whether Qwest properly converted its input data into PID-compliant performance results. Thus, for example, if Qwest's input data showed that an order was missed for customer reasons, Liberty confirmed

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<sup>2</sup> Liberty PMA Report at 1.

<sup>3</sup> See, e.g., Qwest Section 271, Arizona OSS Report Workshop 5, Docket T-00000A-97-0238, December 13, 2001 at 265 (Stright) (Liberty) (agreeing that "[f]or the most part" Liberty did not "validate the accuracy of the input data").

whether Qwest processed an order with a customer-caused miss in accordance with PID requirements. However, Liberty did not verify whether, in the first instance, the order actually was missed for customer reasons.

23. Similarly, if the input data supplied by Qwest included an order populated with a field denoting that the order should be excluded from PID results, Liberty determined whether the order was, in fact, omitted from performance results. However, Liberty did not assess whether the service order should have been populated with a field specifying order exclusion. As a consequence, the Liberty PMA cannot fairly be characterized as dispositive proof regarding the integrity of Qwest's input raw data.

24. Indeed, verification of the accuracy of reported performance results requires a comprehensive evaluation of all elements in the data collection, monitoring and reporting processing streams. That examination necessarily involves an assessment of the accuracy of the input raw data, as well as an assessment of a BOC's ability to apply correctly the calculations, formulas, and exclusions defined within the PIDs when calculating performance results based upon those data. The Liberty PMA accomplished the latter, not the former.

25. When Liberty issued its final report on the PMA, a number of CLECs expressed concerns about the accuracy of Qwest's performance data.<sup>4</sup> As a result, the ROC directed Liberty to conduct a reconciliation of Qwest and CLEC performance data. As discussed in more detail below, the Liberty data reconciliation confirmed that the CLECs' concerns about the accuracy of Qwest's data were plainly warranted.

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<sup>4</sup> Liberty Report on Qwest Performance Measure Data Reconciliation, April 16, 2002 ("Liberty Data Reconciliation Report") at 2, Qwest Appendix D, Attachment 5.

**B. The Liberty Data Reconciliation Process Did Not Validate the Accuracy of Qwest's Data.**

26. Shrouding itself in the Liberty data reconciliation report, Qwest asserts that the Liberty report is further evidence that its performance data are reliable. Qwest Application at 21. Although Liberty ultimately found that Qwest's data are accurate, Liberty's finding is fundamentally flawed.

27. Contrary to Qwest's claims, Liberty's data reconciliation cannot reasonably be relied upon by this Commission as evidence that Qwest's performance data are complete, accurate and reliable. Any notion that Liberty's data reconciliation somehow validated the accuracy of Qwest's performance data is belied by: (1) Liberty's own description of the limited scope of its work; (2) a fundamentally flawed study objective that inappropriately shifted the burden of proof to CLECs; (3) Liberty's failure to resolve conflicts among the parties regarding the appropriate manner in which Qwest's performance should be captured; (4) the lack of military style testing that caused Liberty to close observations and exceptions prematurely before verifying that errors had been corrected; and (5) the failure of Liberty to issue an exception or observation for clear deficiencies in Qwest's performance data. However, even Liberty's deficient data reconciliation exposed numerous problems in Qwest's performance monitoring and reporting processes.

**1. Limitation in Scope**

28. The Liberty data reconciliation, in which AT&T, WorldCom, and Covad participated, was extremely limited in scope. By Liberty's own admission, "[t]he scope of the study did not include the entire matrix of the three CLECs and all measures, states and

products.”<sup>5</sup> Indeed, the only data examined during this study were those from Arizona, Colorado, Nebraska, Washington, Oregon, Utah and Minnesota.<sup>6</sup> Thus, no data were examined from two of the States that are included in Qwest’s application (*i.e.* Montana and Wyoming).

29. Additionally, the Liberty data reconciliation process was not a comprehensive analysis of all performance measures. Liberty’s analysis was limited to data for the following seven measures (*id.* at 5): (1) PO-5-Firm Order Confirmations On Time; (2) OP-3 Installation Commitments Met; (3) OP-4 Installation Interval; (4) OP-6-Delayed Days; (5) OP-13-Coordinated Cuts on Unbundled Loop; (6) OP-15-Interval for Pending Orders Delayed Past Due Date; and (7) MR-6-Mean Time to Restore. As a result, the Liberty data reconciliation process did not examine data on flow-through, rejection intervals, jeopardy notice timeliness, repair repeat rates, work completion notification timeliness, billing completion notification timeliness or other measures that are important to competitive entry.

30. Notably, in its Application, Qwest identifies 13 so-called “central performance metrics” in the PIDs. Williams Decl. ¶ 20. Qwest’s list is, by no means, a comprehensive listing of all performance metrics which are important to competitive entry. Even taking Qwest’s list at face value, Liberty’s data reconciliation involved an examination of data for only five of Qwest’s 13 “central performance metrics.”<sup>7</sup> Additionally, Liberty’s study did not

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<sup>5</sup> Liberty Data Reconciliation Report at 2.

<sup>6</sup> Liberty Data Reconciliation Report at 5.

<sup>7</sup> The Liberty data reconciliation process did not examine data for the following measures that are included in Qwest’s list of “central performance metrics:” (1) GA-1 through GA-6: Gateway Availability; (2) OP-5: New Service Installation Quality; (3) MR-3: Out of Service Cleared Within 24-hours; (4) MR-4: All Troubles Cleared Within 48-Hours; (5) MR-5: All Troubles Cleared Within 4 Hours; (6) MR-7: Repair Repeat Report Rate; (7) MR-8: Trouble Rate; and (8) MR-9: Repair Appointments Met.

even involve a comprehensive examination of all data for the handful of measures that were included in the study. As Liberty concedes in its final report, its assessment of MR-6 “was not a complete reconciliation, but rather an examination of particular trouble tickets for which AT&T’s and Qwest’s records matched.” *Id.* at 7.

31. The Liberty data reconciliation process was also limited in product scope. The data examination covered only three products (*i.e.* line sharing, unbundled loops, and LIS trunks). *Id.* at 66. And, in some instances, Liberty examined data for only one or two products for individual CLECs. *Id.* at 6.<sup>8</sup>

32. The data reconciliation process was also limited as to temporal scope. During the data reconciliation process Liberty reviewed data which were generated from January to June 2001.<sup>9</sup> Even Liberty emphasized in its report that “[t]his is particularly noteworthy for certain of the OP measures because Qwest made significant changes to its methods for calculating OP-3, -4, -6, and -15 with the release of PID 4.0 in the second half of 2001.” *Id.* at 6 (emphasis added).

33. In fact, when it otherwise suits its purposes, Qwest contends that audit determinations based upon aged data — “orders between 9-12 months ago suggests that these results are not significant and outdated.” Notarianni/Doherty Decl. ¶ 327 (dismissing the significance of a “not satisfied” finding during KPMG’s OSS test). Similarly, Qwest argues, in other contexts, that audit findings rendered before the implementation of substantial system changes serve no useful purpose. *Id.* If Qwest’s arguments are taken to their logical conclusion,

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<sup>8</sup> For example, only AT&T LIS trunk data were examined during the Utah evaluation. The examination of Covad’s data was limited to unbundled loop and line sharing data. Liberty Data Reconciliation Report at 6, Qwest Appendix D, Attachment 5.

the Liberty data reconciliation process has no probative value because: (1) the data reconciliation involved an examination of data that are, in some instances, over one year old; and (2) the examination was conducted before Qwest made substantial changes to its methodology for calculating performance results. In all events, given the numerous limitations of the Liberty data reconciliation process, it cannot reasonably be relied upon as incontrovertible evidence that Qwest's performance data are accurate.

**2. Study Objective**

34. The Liberty audit is also fundamentally infirm because of a critical defect in its stated study objective which inappropriately shifted the burden of proof to the CLECs. Qwest cannot establish that CLEC access to its operations support systems is nondiscriminatory by asserting or promising that it will be so. Qwest must demonstrate that nondiscriminatory access is actually being delivered to CLECs. Moreover, Qwest bears the burden of establishing that each and every requirement of Section 271, including the obligation to provide services and facilities to CLECs in a nondiscriminatory manner, has been satisfied.<sup>10</sup>

35. Critically, Liberty describes the objective of the data reconciliation process as follows:<sup>11</sup>

Liberty conducted multiple discussions with state commission personnel, Qwest, and CLECs in order to secure their comments on

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<sup>9</sup> *Id.* (noting that “[t]he timeframe from the data that were reconciled was the first half of 2001”).

<sup>10</sup> *See, e.g., Michigan 271 Order*, ¶ 43 (“the ultimate burden of proof with respect to factual issues remains at all time with the BOC”), ¶ 158 (the BOC “has the burden of demonstrating that it has met all of the requirements of section 271”); *Connecticut 271 Order*, App. D-3, ¶ 5 (stating that “[t]he BOC at all times bears the burden of proof of compliance with Section 271, even if no party challenges its compliance with a particular requirement”) (footnote omitted); *New York 271 Order*, ¶ 47 (same).

<sup>11</sup> Liberty Data Reconciliation Report at 3, Qwest Appendix D, Attachment 5.



the scope and objectives for this test. Liberty determined that the objective for the data reconciliation process solicited by the ROC should be to answer the following question:

Does any of the information provided by the participating CLECs demonstrate inaccuracy in Qwest's reporting of performance results under the measures defined in the PID?

36. AT&T strenuously objected to Liberty's stated objective because it placed the burden on the CLECs to identify discrepancies in Qwest's data and prove that Qwest's data are inaccurate. In its report, Liberty contends that "any arguments related to improper study objective should be brushed aside" because some problems regarding the accuracy of Qwest's data "were discovered through examining information completely independent of data provided by CLECs, or through direct admissions by Qwest." *Id.* at 4. It is certainly true that, during the data reconciliation process, Liberty obtained information and data from Qwest and the CLECs. However, Liberty's study objective suggests that any finding of inaccuracy rested squarely upon affirmative proof provided by the CLECs. This shift in the burden of proof is wholly inappropriate and contrary to this Commission's precedent which emphasizes that the BOC bears the burden of proof at all times when proving statutory compliance.

**3. Failure to Render Conclusion**

37. Liberty's data reconciliation process suffers from other deficiencies which underscore that it cannot properly be considered as a reliable indicator of data accuracy. In its final report on the data reconciliation process, Liberty conceded that, when the CLECs and Qwest "interpreted requirements differently," it made no effort to render an opinion regarding the propriety of such interpretations, stating (*id.*):

For example, Liberty was not required to determine whether CLECs could produce Qwest's performance results with their own information, or what changes would be required to allow such

recreation. There were also situations in which Liberty found that Qwest and a CLEC interpreted requirements differently or had different understandings of how interactions with Qwest on the information results from them should be treated. In those cases, Liberty did not seek to determine who was right and who was wrong, or who represented the better practices. Indeed, Liberty's goal was to determine whether in consideration of the requirements of the PID...Qwest's methods practices, or processes contained material error. Therefore, in the case of data discrepancies, Liberty requested an affirmative showing of a Qwest error or omission before issuing an exception or observation.

38. This admission is nothing short of remarkable. The Liberty data reconciliation process revealed significant discrepancies between Qwest's and the CLECs' interpretations regarding the manner in which Qwest's performance should be captured in performance results. Moreover, in those instances where the PID was silent or sufficiently unclear so that both parties' positions might arguably fall within the ambit of the PID definition, Liberty should have grappled with these issues and rendered a decision. Liberty's refusal to render findings to resolve these conflicts is an important gap in its analysis. What remains unclear is precisely why Liberty chose to take such an approach. Thus, it is unclear whether Liberty refrained from reaching findings on the conflicting interpretations of the parties because: (1) it simply wanted to avoid resolving contentious disputes; or (2) the pressures to complete the study forced it to curtail its analysis; or (3) it had an extremely circumscribed and misguided view of its responsibilities. In any event, all three reasons for Liberty's failure to reach findings which impact ultimate conclusions regarding data accuracy are unacceptable. Given these circumstances, the Liberty data reconciliation process cannot plausibly be relied upon as a comprehensive, robust analysis of the integrity of Qwest's data.

**4. Lack of Military Style Testing**

39. To make matters worse, during the data reconciliation process, Liberty inconsistently subjected Qwest to military-style testing. In its Application, Qwest emphasizes that, although “Liberty issued one Exception Report and 14 Observation Reports concerning inconsistencies in the data . . . Liberty closed each report as resolved.” Qwest Application at 21-22. Thus, Qwest maintains that the closure of each exception and observation demonstrates beyond cavil that this Commission can and should rely on the Liberty data reconciliation report as proof that Qwest’s data are accurate. Qwest’s reliance on this slender reed is misplaced.

40. In finding that KPMG’s third-party test of Bell Atlantic’s OSS in New York constituted persuasive proof of the operational readiness of Bell Atlantic’s OSS, the Commission pointed out that KPMG used military-style testing:<sup>12</sup>

In performing these tests, KPMG adopted a military-style test philosophy, or a mindset of ‘test until you pass.’ Thus, when situations arose where testing revealed that a Bell Atlantic process, document, or system did not meet expectations, Bell Atlantic would generally implement a fix and KPMG would retest the process, document, or system until satisfied.

41. During its data reconciliation, Liberty opened and closed numerous observations that identified problems in the integrity and reliability of Qwest’s data. However, Qwest cannot take solace in Liberty’s closure of these reports. In any number of instances, the closure of an exception or observation did not mean that all deficiencies in Qwest’s data had been resolved. Contrary to the approach taken by KPMG during its third-party test in New York, Liberty closed observations prematurely without verifying that Qwest successfully resolved the problems identified in the observation report.

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<sup>12</sup> *New York 271 Order*, ¶ 98 (footnote omitted).

42. Indeed, when Liberty discovered that human errors during the data monitoring and reporting process “could have a non-trivial effect on the reported performance results,” Liberty apparently believed that its function as an auditor was restricted to determining whether Qwest’s proposed new training programs and revised procedures should be effective in eliminating these problems. In fact, Liberty has conceded that, in some instances, when Qwest claimed that problems identified during the data reconciliation had been resolved through additional training, Liberty simply reviewed the training materials, but never verified the accuracy of Qwest’s representations by observing the actual training or determining the efficacy of the training that was provided to Qwest’s representatives.<sup>13</sup>

43. Similarly, during hearings, Liberty admitted that, in some instances, before closing observations, it failed to examine Qwest’s data generated after the purported fix to assess the efficacy of the so-called corrective action that Liberty had taken.<sup>14</sup>

Q. (MS. TRIBBY CONTINUING) And, admittedly, in doing your data reconciliation now, you’re looking at data that is potentially a year old; correct?

A. Yes.

\* \* \*

Q. The question was that you have not done an audit or a reconciliation of more recent months’ data to verify that a fix has been put in play?

A. That’s correct.

44. Moreover, Liberty conceded that, when Qwest represented that a problem had been fixed, Liberty took Qwest at its word. *Id.* at 79-80. Thus, Liberty’s closure of

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<sup>13</sup> Transcript of Hearing, Case No. PU-314-97-193 (North Dakota Public Service Commission) (“North Dakota Hearing Transcript”), March 18, 2001 at 83-84 (Stright) (Liberty).

observations did not mean and could not mean that Qwest fully corrected the problems that served as a basis for an observation. Set forth below are examples of data integrity issues identified in observations that were closed prematurely.

45.     **Observation 1028.** In Observation 1028, Liberty “reported that there was a significant error rate (about 15 percent) in the mean-time-to-repair (MTTR), or repair duration, used by Qwest in calculating its MR-6 measures for AT&T in Nebraska.”<sup>15</sup> In analyzing the frequency of these types of errors, Liberty found that Qwest had an error rate of 6.5% in Oregon and an error rate of 6.5% for Arizona and Nebraska combined – error rates that Liberty determined were unacceptably high. Qwest’s errors generally were the result of “improper handling of, ‘no access’ time and improper ticket restoring and closing procedures.” *Id.* at 14.

46.     Notably, not only were these errors made by customer service technicians, but they were also made by the “scrubbers” – the quality control personnel “responsible for verifying and reconciling ticket histories.” *Id.* After Qwest furnished training materials that ostensibly were designed to improve the processing of trouble tickets, Liberty closed the observation, stating that it “is satisfied that Qwest has taken positive steps to reduce the level of errors found during the data reconciliation work . . . .” *Id.*

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<sup>14</sup> North Dakota Hearing Transcript, at 82 (Stright) (Liberty).

<sup>15</sup> Liberty Observation 1028 dated December 26, 2001 and Disposition of Observation 1028. The exceptions are available at [www.nrri.ohio-state.edu/oss/master/exceptions/exceptions.htm](http://www.nrri.ohio-state.edu/oss/master/exceptions/exceptions.htm), and the observations are available at [www.nrri.ohio-state.edu/oss/master/observations/observations.htm](http://www.nrri.ohio-state.edu/oss/master/observations/observations.htm).

47. Remarkably, as Liberty's final report and the following testimony elicited at hearing confirm, Liberty closed the observation even though it could not "substantiate" whether Qwest's new training programs would "work to reduce the error rate in MTTR":<sup>16</sup>

Q. And on the top of page 6 you note that Liberty found that the errors in MTTR were generally due to improper handling of no access time and improper ticket restoring and closing procedures. Do you see that?

A. Yes.

Q. And I take it that Qwest gave you or talked to you about some new methods and procedures that they were going to put in place in order to fix that problem; is that correct?

A. Yes.

Q. And in the last paragraph you state that while Liberty expects that the renewed focus on methods and procedures should work to reduce the error rate in MTTR, it cannot substantiate those effects at this time. Correct?

A. That is correct.

Q. And in fact you recommend that because you can't substantiate those effects, that might be appropriate for future monitoring; correct?

A. Yes.

Q. And if even though Liberty was not able to substantiate the M & R changes, Liberty did close this observation; correct?

A. Yes.

48. Because Liberty never verified whether Qwest's new training programs successfully resolved the error rates in trouble tickets, Liberty's closure of this observation was premature. Any such verification should have been relatively simple. After Qwest implemented its training programs, Liberty could have asked Qwest to submit a list of all trouble tickets as to

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<sup>16</sup> North Dakota Hearing Transcript at 84-86 (Stright) (Liberty).

which a “no access” condition was associated with the restoral time. Liberty then could have examined all or a sample of the interconnection trunk trouble tickets to assess whether Qwest continued to make errors in determining restoral and closure times for trouble reports. Because this testing never occurred, there is no assurance that these errors are not presently reflected in Qwest’s performance data which are included in its Application.

49. Moreover, given Liberty’s prior observations that the errors that Qwest made in calculating MTTR results were “significant,” Liberty could have and should have verified whether Qwest’s proposed corrective measures resolved these data problems.<sup>17</sup> Furthermore, in view of Liberty’s representations regarding the elimination of other data problems purportedly attributable to the efficacy of remedial steps and Liberty’s contrary findings,<sup>18</sup> Liberty should have tested the veracity of Qwest’s representations regarding the purported effectiveness of its so-called remedial measures.

50. **Observation 1029.** In Observation 1029, Liberty found that Qwest was improperly excluding certain CLEC line-sharing orders. Significantly, Qwest conceded “that it was unable to report the majority of line-sharing orders in the months of July and going forward for certain CLECs.” *Id.* at 15. However, before closing this observation, Liberty never validated

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<sup>17</sup> Liberty Observation 1028, dated December 26, 2001 at 1.

<sup>18</sup> For example, in Observation 1026, Liberty found that Qwest improperly included retail orders when calculating its wholesale results. In its response to this observation, Qwest stated that a code change implemented with “the December 2001 release corrected the results for all months in 2001.” However, “Liberty found that for months before July 2001, Qwest’s revised code could not correct the problem.” Liberty Data Reconciliation Report at 13. Qwest’s initial statement regarding the purported elimination of problems as a result of a code change and Liberty’s contrary finding demonstrate that Liberty should have confirmed that Qwest’s remedial measures actually corrected the problems that Liberty identified.

the effectiveness of the permanent fix that Qwest implemented to resolve this problem. *Id.* at 15-16.

51. In this regard, in an attempt to eliminate this problem, Qwest implemented an interim “work-around solution” using a revised computer code.<sup>19</sup> After comparing the original July test data with the corrected July data file generated using the work-around solution, Liberty “confirm[ed] that the improperly excluded orders were included in the new July RSOR data set” and closed the observation in February 2002.<sup>20</sup>

52. However, Qwest implemented a permanent solution for this problem with the addition of a new detail field in PANS and announced that the results of the performance fix would be reflected in its reported results commencing with its December 2001 data.<sup>21</sup> Although Liberty had ample opportunity to review Qwest’s performance results generated after implementation of the permanent fix, Liberty never evaluated the effectiveness of Qwest’s permanent solution and relied instead on an assessment of Qwest’s interim work-around solution.

53. **Observation 1030.** In Observation 1030, Liberty found that, “Qwest failed to report a number of Covad’s Firm Order Commitment (FOC records) because the state code was not automatically logged for those transactions.”<sup>22</sup> In response to this observation, Qwest asserted that this problem “was caused by a code break in EDI 6.0 related to unbundled loop processing,” and was ultimately resolved with more recent versions of EDI. Although Liberty closed this observation, Liberty admitted during hearings that it never examined Qwest’s

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<sup>19</sup> Liberty Disposition Report, Observation 1029.

<sup>20</sup> Liberty Data Reconciliation Report at 12.

<sup>21</sup> North Dakota Hearing Transcript at 142.

<sup>22</sup> Liberty Data Reconciliation Report at 12.



data that were generated using more recent EDI versions to determine if these problems had been resolved:<sup>23</sup>

Q. I want to look back just at one more observation and that's 1030, which is discussed on pages 6 and 7. I'm looking particularly at the last paragraph discussing this observation on page 7. And your paragraph there states – and this has to do with coding problems – on the basis of Liberty's review of this matter, including Qwest's proposed solution to identifying records that did not contain a state code and Qwest's response to AT&T's concerns, Liberty considers this observation closed. Do you see that?

A. Yes.

Q. You're talking here about Qwest's proposed solution. Is that a solution that you were able to observe in practice after it had been implemented?

A. I need to go back and review this, if you could give me just a moment, because as soon as you read that, I questioned why the work "proposed" is in there.

Q. Sure, Go ahead, Bob.

A. Okay. I do recall some of the specifics now, is that this problem was corrected, but there was still a possibility that a record did not contain a state code and so Qwest initiated an additional process that they go through each month to identify those and that additional process is what we were referring to here. And in answer to your Question, no, we did not verify that particular aspect of this issue.

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Q. You would not have reviewed any data or anything having to do with the new EDI interface which Qwest claims fixes this problem that was not put in place until January of this year; correct?

A. We did not look at data from late last year or early this year, that's correct.

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<sup>23</sup> North Dakota Hearing Transcript at 87-88, 89-90.

54. **Observation 1031.** Liberty found in Observation 1031 “that the Service Order Miss Code (SOMC) in the RSOR data for some orders was incorrect, leading to errors in performance measurement reporting.” Liberty Data Reconciliation Report at 13. During the data reconciliation process, Liberty determined that, when Qwest missed a commitment due to a lack of facilities, it inappropriately attributed the miss to the CLEC. Qwest personnel apparently failed to properly record Qwest-caused facility delays in TIRKS, and if Qwest personnel recorded the delay in TIRKS, they failed to populate WFAC with the information.

55. In describing the basis for this observation, Liberty identified a kitchen sink variety of “anomalies regarding the information in WFAC, the SOMC, and how they are used in performance measure reporting.”<sup>24</sup> For example, in its initial observation, Liberty found that: (1) Qwest issued jeopardy notices long after the due date; (2) when Qwest issued a jeopardy notice, it incorrectly excluded the affected order from its OP-3, OP-4 and OP-6 results; (3) the “Service Order Miss Codes (“SOMC”) in Qwest’s RSOR data were not supported by the underlying WFAC information”; and (4) Qwest failed to adhere to its own procedures when determining whether Qwest or the CLEC should be held accountable for the missed due date.

56. In a data request, Liberty asked Qwest to explain how Qwest could issue a jeopardy notice well after the committed due date and then exclude the affected orders from its performance results. In Observation 1031, Liberty noted that, “Qwest’s response was inadequate.” Tellingly, in response to a data request, Qwest stated that it could not even “find” the original due date for one order “even though the RSOR data supplied to Liberty by Qwest contained the due date.” Liberty Observation 1031 at 3. The mere fact that Qwest could not

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<sup>24</sup> Liberty Observation 1031.

“find” the original due date in its RSOR data speaks volumes about the stability and reliability of its performance monitoring and reporting processes. In a supplemental response to data requests, Qwest conceded that “human error” caused it to issue jeopardy notices after the due date and improperly attribute jeopardy conditions to the customer. *Id.*

57. In its formal response to Observation 1031, Qwest admitted that 6.12% of AT&T’s “interconnection trunk orders were miscoded as customer-caused misses.” See Qwest Formal Response to Observation 1031. Noting that these problems did not impact Covad or WorldCom orders, Qwest asserted that these errors had “minimal impact.” In its response, Qwest also stated that it “conducted an additional assessment of the underlying causes of these human error problems and the means by which they should be corrected.”<sup>25</sup> In that connection, Qwest noted that it had instituted training programs designed to assure that employees properly populated TIRKS with facility delays that were caused by Qwest.

58. Importantly, Liberty prematurely closed this observation based upon Qwest’s promise that training programs “should” resolve these problems and Qwest’s unverified representation that the impact of these errors was minimal. Liberty Data Reconciliation Report at 15. Liberty never verified the effectiveness of Qwest’s remedial steps by reviewing a list of all CLEC interconnection trunk orders with missed commitments attributed to the customer, examining WFAC to assess the appropriateness of a customer jeopardy, and examining TIRKS to determine whether there was a facility miss associated with the order.

59. **Observation 1032.** In Observation 1032, Liberty found that Qwest improperly included in its OP-4 performance results orders with longer than standard intervals.

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<sup>25</sup> Liberty Data Reconciliation Report at 13 (emphasis added).

In response to this observation, Qwest admitted that, due to “human error,” it failed to use the “L” code which would have identified such orders.<sup>26</sup> After Liberty determined that this error affected a lower percentage of orders than it initially thought and based upon an examination of the revised documentation that Qwest represented “should help to avoid this kind of error in the future,” Liberty closed the observation.<sup>27</sup> However, Liberty apparently closed the observation without verifying through retesting whether the revised documentation actually eliminated these errors. Such verification could have consisted of a simple examination of Qwest’s post-fix data to ascertain whether Qwest properly “L” coded orders.

60.     **Observation 1033.** In Observation 1033, Liberty found that Qwest used an incorrect order application date/time when calculating installation intervals for AT&T’s trunk ASRs. OP-4 measures the average installation interval that elapses between the application date and the completion date.<sup>28</sup> According to the PID, the application date is “[t]he date (and time) in which Qwest receives from the CLEC a complete and accurate local service request (LSR) or access service request (ASR) or retail order” subject to certain exceptions. *Id.* Thus, for example, under the PID, the application date for ASRs for designed services submitted after 3:00 p.m. is the next business day. In Observation 1033, Liberty found that, even when ASRs were received after 3:00 p.m., Qwest did not use the next business day as the application date. In other instances, Liberty found “that Qwest used the wrong application date because of

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<sup>26</sup> Liberty Observation 1032.

<sup>27</sup> Disposition Report for Observation 1032.

<sup>28</sup> See, e.g., Qwest ROC 211 Working PID Version 5.0, (OP-4).

uncertainty as to whether or not the application was ‘complete and accurate’ as is required in the definition section of the PID.”<sup>29</sup>

61. In its initial response to Observation 1033, Qwest conceded that it applied the wrong application dates due to “human error.”<sup>30</sup> Qwest also stated that it would take a number of “steps to reduce these kinds of errors” by, *inter alia*, conducting additional training and “[i]mprov[ing] the quality control process by increasing the quantity of ASRs sampled in the quality review process from 20 to 30 ASRs per SDC per month.” *Id.* Although Qwest attempted to characterize the impact of these errors as “minimal,” Liberty stated that “Qwest committed human errors in a third of the LIS trunk orders for which the parties agreed on the denominator but not the numerator.”<sup>31</sup>

62. Remarkably, after reviewing the documentation that Qwest used to train its personnel, Liberty closed Observation 1033 without further investigation.<sup>32</sup> Clearly, an examination of training materials and methods and procedures could only reveal what Qwest should do when processing orders. Significantly, Liberty’s findings in Observation 1033 revealed that Qwest failed to follow prescribed procedures. Given these deficiencies in Qwest’s performance, Liberty should have verified whether these problems were eliminated after Qwest implemented its training programs.<sup>33</sup>

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<sup>29</sup> Liberty Observation 1033 dated January 3, 2002.

<sup>30</sup> ROC Observation and Exception Formal Response to Observation 1033 dated January 11, 2002.

<sup>31</sup> Liberty Memorandum from Bob Stright to ROC TAG dated January 14, 2002.

<sup>32</sup> Liberty Data Reconciliation Report at 16.

<sup>33</sup> Although Qwest admitted that it made these errors, it did not restate its historical results because “[i]t is a Qwest policy not to alter closed records.” North Dakota Hearing Transcript, March 18, 2002 at 86.

63. To make matters worse, although Qwest stated in its response to this observation, that it implemented a quality review process that involved, *inter alia*, increasing the volumes of sampled ASRs, Liberty closed the observation even after Qwest could not produce a single document supporting its representation (*id.* at 90-91):

Q. And it would be fair to say, wouldn't it, Mr. Stright, that at times Liberty has wanted to see written documentation to give it some assurance that a problem has been fixed and that documentation has not been available to Liberty, wouldn't it?

A. There were cases where we asked for things and either we didn't get them or Qwest couldn't provide them, or there were cases where we asked for information and we felt that that was insufficient or not on target enough and so we asked for more.

Q. But even where Liberty has been unable to get some of the written documentation that it has wanted to see, it has still closed some observations; wouldn't that be accurate?

A. Yes.

Q. In fact, looking at observation 1033 on page 9 of your Washington report, this is one case – and I'm looking at the last half of paragraph 3 – where Qwest said to Liberty, we've got a new quality review process that will help with this problem and Liberty wanted to see some documentation having to do with that quality review process and that documentation was not available to you; correct?

A. That's correct.

64. **Observation 1035.** In Observation 1035, Liberty reported that Qwest was improperly including cancelled orders in its performance results on the OP-3 and OP-4 measures. As a result of this error, Qwest overstated its performance by improperly counting cancelled orders as orders as to which the due date was met. This problem occurred because of poor programming practices. At the creation of an order, Qwest automatically and prospectively populated the completion date field on the order with the committed due date. Once the order

was completed, Qwest's systems should have populated the actual completion date for the order in Qwest's system. However, Liberty found that, even after an order had been cancelled, Qwest's systems failed to populate the actual completion date field with a value indicating order cancellation.

65. In addressing AT&T's concern that Qwest's prepopulation of completion dates could also have resulted in missed appointments being counted as met commitments for data generated prior to May 2001, Liberty found, *inter alia*, that Qwest could not even "reconstruct the data" to verify whether its missed appointment results were infected with the same errors:<sup>34</sup>

Specifically, if completion dates were automatically assigned by SOLAR and passed to RSOR prior to May 2001, it may be possible that completion dates for most commitments could be inaccurate if they were not changed from being equal to the due dates. Qwest was unable to reconstruct the data to validate whether non-cancelled orders had accurate completion dates. It appeared that there were no safeguards in place to ensure that accurate completion dates were entered into the system to override the one automatically assigned by SOLAR. To the extent that orders were closed manually, (as opposed to being auto-completed, such that the completion date would be automatically updated), it is possible that some orders did have completion dates that were not accurate.

66. Based upon Qwest's representation that it implemented a programming fix to correct this problem, Liberty closed the observation without verifying whether the programming solution actually resolved this problem. In fact, Liberty admitted that it closed the observation even though it could not verify whether there were any "safeguards in place to correct the problem:"<sup>35</sup>

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<sup>34</sup> Liberty Observation 1035.

<sup>35</sup> North Dakota Hearing Transcript, March 18, 2002 at 86-87.

Q. Let's move on to observation 1035, which is discussed on pages 10 and 11. This has to do with whether Qwest is inappropriately including canceled orders in its measures. And you're discussing on page 11 Liberty's comments on an issue that AT&T has made. And as I read your report in that second to the past paragraph on page 11 discussing observation 1035, you are acknowledging that the concern raised by AT&T may exist and that there may not be safeguards in place to correct that problem. Is that accurate?

A. That is correct.

Q. And despite that Liberty has closed this observation 1035; correct?

A. Yes.

67. **Observation 1036.** In Observation 1036, Liberty found that Qwest inappropriately omitted AT&T's LIS trunk re-termination orders from its OP-measure results. In its response to this observation, Qwest stated that, because only inward orders should be included in OP-measure results and because re-terminations do not involve inward activity, re-termination orders were properly excluded from OP-measure results. However, Qwest also conceded that, because of "human error," it improperly used a C40 code which "drove inconsistent results," with certain orders being excluded and included.<sup>36</sup>

68. In an effort to show that the problems identified in Observation 1036 had been remedied, Qwest stated that it retrained its Design Service Center employees regarding the proper jeopardy code that should be used for switch conversions and planned to implement a programming fix. *Id.* at 3. Based upon a review of Qwest's training materials on jeopardy codes and an examination of the revised programming code, Liberty closed Observation 1036.<sup>37</sup>

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<sup>36</sup> Qwest ROC Observation and Exception Formal Response OBS 1036, dated March 7, 2002 at 23.

<sup>37</sup> See Liberty Disposition of Observation 1036.



Importantly, Liberty never confirmed whether Qwest's training programs and revised code actually eliminated the problems identified in this observation.<sup>38</sup> During hearings in North Dakota, Robert Stright, a Liberty principal who drafted the final report, testified that Qwest "fixed" the problems identified in Observation 1036, but admitted that Liberty made no effort to assess whether Qwest's more recent data reflected the same problems reflected in the observation:

A. For that particular matter we're looking in January through June, I believe, of last year.

Q. So have you attempted to make a determination by looking at any recent data to see whether that problem is or is not reflected in Qwest's most recent months of reported data?

A. No.

69. **Observation 1037.** Observation 1037 found that Qwest failed to record the correct stop time used in calculating the OP-13A measure on the timeliness of coordinated cutovers. Under the PID, Qwest was required to record the stop time as the date when the "physical work and Qwest testing were completed." However, Qwest erroneously recorded the stop time "as the time the CLEC called back to confirm that the order was completed."<sup>39</sup>

70. In its response to this observation, Qwest conceded that it used erroneous stop times for hot cuts and that this "error manifested itself in two ways": (1) Qwest's reported results reflected missed commitments that were actually completed on time;<sup>40</sup> and (2) Qwest

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<sup>38</sup> North Dakota Hearing Transcript, March 18, 2002 at 78.

<sup>39</sup> Liberty Observation 1037.

<sup>40</sup> Qwest's errors "that result in its reported performance being worse than actual performance" should not be ignored. Department of Justice Evaluation, *Georgia/Louisiana 271* n. 115. As the Department of Justice correctly observed, "[i]n order to establish effective benchmarks that readily can be used to hold an incumbent to an appropriate level of wholesale performance,

recorded the time when the CLEC called back to accept the loop, but then subtracted the delay time from the overall interval. Although Qwest's designation of the stop time was plainly incorrect, Qwest maintained that its overall reported interval was, nonetheless, accurate.<sup>41</sup>

71. In its Disposition Report, Liberty stated that, based upon its review of Qwest's data for July and August 2001, it found no evidence that Qwest was still using incorrect stop times. However, Liberty's finding is belied by Qwest's own admission -- in a response dated April 3, 2002 -- that its technicians continued to inappropriately record the stop time as the time the CLEC called back (but simply subtracted the delay time from the installation interval calculation). Qwest's recording of the stop time was plainly contrary to the PID. Significantly, the mere fact that Liberty failed to detect these purported "technical" errors in Qwest's June and July 2001 data -- errors that Qwest admitted still existed -- highlights the inherent deficiencies in Liberty's testing.

72. Based upon Qwest's representations "that it had updated its job aids and retrained its testers on the correct treatment of stop times as of April 5, 2002" Liberty closed the observation without verifying the effectiveness of Qwest's proposed fix.<sup>42</sup>

##### **5. Failure to Issue Exceptions**

73. The Liberty data reconciliation process is also flawed because Liberty failed to issue an exception or observation for instances of Qwest's noncompliant conduct. In its report, Liberty concedes that, although "OP-3 required a comparison of the completion date to

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metrics must neither understate nor overstate actual performance." *Id.*

<sup>41</sup> ROC Observation and Exception Formal Response to Observation 1037, dated April 3, 2002 at 2.

<sup>42</sup> Liberty Data Reconciliation Report at 18. Additionally, Liberty failed to investigate whether these errors affected PIDs other than OP-13A.

the original due date (in accordance with PID 3.0), Qwest did not report orders for which the CLEC changed that original due date.” *Id.* at 7. Qwest’s exclusion of such orders violated the plain language of the PID; however, Liberty failed to issue an exception or observation for this lapse in performance reporting.

74. In this regard, during the development of the OP-3 PID, the parties discussed the fact that, under the PID, the evaluation of Qwest’s performance was to be based on its ability to meet the original due date. Noting that Qwest would be deemed to have failed the measure even if it met the supplemental due date requested by the CLEC, the developers of the PID stated that Qwest’s performance should be measured against the supplemental, rather than the original, due date. Curiously, Qwest soundly rejected that approach. Noting that both retail and CLEC service representatives supplement orders and that OP-3 is a parity measure, Qwest insisted that its performance should be measured against the original due date even if it is supplemented by the CLEC. Although the developers of the PID believed that Qwest’s approach was flawed, the CLECs and the ROC accepted Qwest’s proposal.

75. However, during the data reconciliation process, Liberty found that, instead of measuring its performance against the original due date, Qwest unilaterally and without prior notice, excluded orders with supplemental due dates. In doing so, Qwest inexplicably and inappropriately classified such orders as missed commitments because of a “customer hold for payment.”<sup>43</sup>

76. Performance measures serve no useful purpose if they are subject to unilateral manipulation or redefinition by the BOC. Once Qwest agreed to measure its

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<sup>43</sup> Qwest Section 271 Arizona OSS Final Report, Workshop 5, Docket No. T-00000A-97-0238, December 13, 2001 at 354.

performance against the agreed due date, it was required to adhere to the business rules governing the metric. Liberty admitted in its report that “Qwest was in violation of the precise language that had been contained with PID” when it unilaterally excluded orders from its performance results, however, it essentially glossed over this violation and failed to issue an exception.<sup>44</sup>

77. As the foregoing makes clear, although Liberty inappropriately and prematurely closed observations during the data reconciliation process, Liberty’s own report reveals that Qwest’s performance data monitoring and reporting processes are riddled with errors – errors that underscore the frivolity of Qwest’s claims regarding the purported integrity of its data. Liberty found that “half of the performance measure-reporting problems that Liberty identified were processing or system-type matters.”<sup>45</sup> The remainder “were associated with human errors . . . that could have a non-trivial effect on the reported performance results.” *Id.* at 8.

78. In attempting to prove that its systems and processes are reliable, Qwest emphasizes in its Application that, before distributing its monthly performance reports, its regulatory reporting group scrutinizes “draft reports for accuracy and corrects any apparent errors.” Williams Decl. ¶ 7. Qwest states further that it “has a dedicated team of workers who routinely review the PIDs and Qwest’s data gathering systems . . . to ensure that Qwest is reporting results in accordance with the PIDs.” *Id.* Given the errors and deficiencies in Qwest’s

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<sup>44</sup> In reporting on the specific data reconciliation results for AT&T for Utah and Minnesota, Liberty found that: with respect to its reconciliation of 28 orders Qwest’s error rate was 11.1% on the OP-3 measure; Qwest’s error rate was 15.5% on the reconciliation of orders on; OP-4; and the error rate was 66.7% on its reconciliation of orders under OP-15. Liberty Data Reconciliation Report at 21.

performance data that have been uncovered to date, these internal quality control procedures that Qwest touts in its Application have proven to be ineffective. Beyond that, Qwest's own description of its quality assurance program reveals that these processes are, in large measure, manual in nature. If Qwest's processes were mechanized so that the results of operations (*i.e.* raw data) were extracted from its operations databases and processed through the PID reporting rules, Qwest's data gathering, reviews and verification steps would be far less labor-intensive and far less prone to error. In a report that Qwest prepared in January 2001 at the request of the ROC TAG, Qwest identified those portions of its PID reporting processes that were both manual and mechanized. That report reveals the significant extent to which Qwest relies upon manual procedures during the PID reporting process.<sup>46</sup> As the Liberty data reconciliation process revealed and as the KPMG ROC OSS test confirmed, Qwest's undue reliance on manual processing has generated a host of problems, not the least of which are errors in its performance results.

**C. The KPMG Data Reconciliation Process Did Not Validate the Accuracy of Qwest's Data.**

79. Equally unfounded is Qwest's attempt to rely upon the KPMG data reconciliation process as proof regarding the accuracy of its performance data. As explained in the AT&T OSS Declaration, the reliability of the KPMG test has been called into serious question since its findings were based, to some degree, on information obtained from CLECs that entered into secret agreements with Qwest. Because KPMG relied, in part, on information

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<sup>45</sup>Liberty Data Reconciliation Report at 8.

<sup>46</sup> See Qwest January 22, 2001 Manual v. Mechanized PID Report (attached hereto as Attachment 1).

obtained from CLECs that received preferential treatment from Qwest, the findings of KPMG which are based upon such information cannot be considered trustworthy.

80. Moreover, KPMG's Final Report cannot reasonably be considered a comprehensive analysis of the completeness and reliability of Qwest's performance data. Indeed, for any number of test criteria KPMG was "not able to fully determine that a criteria was satisfied or not satisfied." KPMG Final Report at 12. KPMG conceded that it was unable to determine Qwest's performance on, *inter alia*:

- provisioning EELs and Dark Fiber
- jeopardy notice timeliness for Resale and UNE-P
- performance on OP-6A-Delayed Days
- performance on OP-15-Interval for Pending Orders
- handling of close out codes for DS1 and higher bit rate troubles
- documentation of change management process

81. Furthermore, when test criteria were governed by diagnostic PIDs, KPMG simply calculated performance results without reaching a "Satisfied or Not Satisfied" finding or determining competitive impact. KPMG Final Report at 12. Thus, for example, because "[a]ll but one of the evaluation criteria for the Order Flow Through evaluation were governed by Diagnostic PIDs," KPMG noted that "[t]he Diagnostic results of the Flow Through test should be examined closely in light of the number of problems encountered in the area of manually handled orders during the course of the test." *Id.* at 14-15.

82. Similarly, because eleven test criteria for Test 12 (which involved the pre-ordering and ordering domain) were based upon Diagnostic PIDs, KPMG was unable to make

any determination as to whether Qwest had satisfied these test criteria. The evaluation criteria in Test 12 that were governed by diagnostic measures are as follows (*id.* at 24):

- Qwest systems provide timely pre-order error message responses via IMA GUI.
- Qwest systems provide timely pre-order error messages via IMA EDI.
- Qwest systems or representatives provide rejections in response to LSRs submitted via IMA GUI.
- Qwest systems or representatives provide rejections in response to LSRs submitted via IMA EDI.
- Qwest systems or representatives provide rejections in response to LSRs submitted via facsimile.
- Qwest adheres to the original confirmed Due Date provided as the Firm Order Confirmation (FOC).
- Qwest is able to account for LSRs received electronically.
- Qwest systems or representatives provide timely Work Completion Notifications in response to LSRs submitted via IMA GUI.
- Qwest systems or representatives provide timely Work Completion Notifications in response to LSRs submitted via IMA EDI.
- Qwest systems or representatives provide timely Billing Completion Notifications (BCNs) in response to LSRs submitted via IMA GUI.
- Qwest systems or representatives provide timely Billing Completion Notifications (BCNs) in response to LSRs submitted via IMA EDI.

83. Because KPMG was unable to render findings regarding Qwest's performance in a number of areas, the KPMG Report cannot reasonably be considered a comprehensive analysis of KPMG's performance data.

84. In describing the data reconciliation process conducted by KPMG during the third-party ROC OSS test, Qwest states the following:<sup>47</sup>

In the third party ROC OSS test, KPMG reconciled Qwest's reported performance results for the Pseudo-CLEC with KPMG's own results under measurements designated for test scrutiny. Like Liberty, KPMG identified a few discrepancies between the data sets. Qwest addressed these discrepancies and, with one very minor exception, KPMG closed as 'resolved' every Observation and Exception report that arose from data reconciliation.

85. However, KPMG's audit of Qwest's OSS does not support Qwest's assertion that its data are accurate and reliable. If anything, KPMG's report reveals that Qwest's performance monitoring and reporting processes are plagued with problems resulting from human error. These errors have manifested themselves in a variety of ways including: the improper exclusion of orders from and inclusion of orders in performance results; erroneous calculations of provisioning intervals; and the inappropriate assignment of due dates to the pseudo-CLEC that are longer than the standard interval. Because of these problems, KPMG issued scores of observations and exceptions. Significantly, KPMG uncovered problems regarding the integrity of Qwest's data after Liberty had, in almost all cases, closed as resolved its observations and exceptions based on 2001 data. Given that Liberty closed as resolved its observations and exceptions based on 2001 data and KPMG continued to find data problems based on its review of late 2001 and early 2002 data, this provides further evidence that Liberty was incorrect in closing out its observations and exceptions as resolved.

86. In examining Qwest's responses to 75 observations and exceptions, KPMG found that Qwest repeatedly cited human error as the source of these problems and retraining of its personnel as an appropriate remedial step. Because Qwest's responses were

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<sup>47</sup> Williams Decl. ¶ 55, n. 36.



saturated with references to human error and the need for additional training, KPMG issued Observation 3086 on January 29, 2002, finding that it had discovered “a pattern in Qwest’s Observation and Exception responses that refer to the need for additional training and/or training enhancements.”<sup>48</sup>

87. Although Qwest responded to KPMG’s concerns by promising to implement training programs for its personnel, KPMG expressed reservations about the adequacy of these remedial steps, stating that “as issues raised in ‘new’ Observations/Exceptions continue to point to additional training needs for the SDC and ISC, KPMG Consulting believes that the adequacy of Qwest’s ISC and SDC training programs may be insufficient.” *Id.* at 1. Moreover, KPMG found that any such deficiencies in Qwest’s training programs could “impede a CLEC’s ability to obtain consistent and effective assistance, thereby negatively impacting its ability to conduct business operations.” *Id.* at 7.

88. Remarkably, although KPMG initially discovered these errors through transaction testing and calls placed to the Qwest help desk, KPMG failed to follow this same approach before closing this observation. KPMG simply reviewed Qwest documentation, interviewed Qwest employees and observed Qwest employees at the order processing centers and the CLEC help desk. KPMG’s approach was sorely deficient.<sup>49</sup> It did not perform transaction retesting and did not make additional help desk calls. An examination of Qwest documentation could only reveal what Qwest should do when processing CLEC orders. Further, KPMG’s

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<sup>48</sup> KPMG Observation 3086 at 1.

<sup>49</sup> See KPMG Adequacy Report at 1 (admitting that KPMG was “satisfied that, if properly executed the revised training regime could operate to reduce the likelihood of error,” and that “the testing performed was not designed to permit KPMG Consulting to conclude that the changes and improvements had been effective in actually reducing the errors.”)

interviews with and observations of employees cannot serve as a suitable substitute for actual transaction testing when employees presumably would not know that their performance is being evaluated. Because KPMG simply relied on a review of documentation, as well as interviews and observations, to verify whether the rate of human error fell to acceptable levels, it is hardly surprising that KPMG found that its initial concerns addressed in Observation 3086 were resolved.

89. In all events, despite Qwest's suggestion to the contrary, the closure of Observation 3086 did not constitute a finding that the errors in Qwest's handling of manually-processed orders had been resolved. KPMG's retesting of Exception 3120 – which occurred after the closure of Observation 3086 – revealed that human error was the root cause for discrepancies identified in Qwest's calculation of provisioning intervals under PID OP-4.<sup>50</sup> In fact, KPMG discovered errors in over 15% of Qwest's manually-processed UNE-P, resale and line-sharing orders. These errors were made, in part, because Qwest assigned the wrong application date to manually-processed orders. This lapse in performance reporting is of great concern because the application date essentially "starts the clock" during the provisioning process. Because the application date is used to assign due dates for orders, the erroneous calculation of the application date can have far-reaching effect and taint performance results on OP-3 (Commitments Met); OP-4 (Installation Quality); and OP-6 (Delayed Days). Although KPMG ultimately closed Exception 3120, KPMG issued Observation 3110 as a result of these errors in provisioning calculations.

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<sup>50</sup> KPMG Observation 3110 – Second Response dated May 28, 2002.

90. After Qwest submitted its first response to KPMG's finding, KPMG identified yet other discrepancies in Qwest's data and recommended that Observation 3110 remain open. In its second response to this observation, Qwest conceded that some errors that it made were typographical, but claimed that other orders were properly excluded from the data set.

91. On May 24, 2002, KPMG advised Qwest that either a "retest would be required to enable this observation to reach closure," or "that in lieu of a retest it could review the orders from the earlier PID retest that did not flow-through to try to get a larger sample to determine Qwest's performance on manually handled orders." *Id.* at 3. Qwest accepted the latter approach.

92. After reviewing all of the PID retest orders, KPMG found that 60 of 109 orders that failed to flow-through were "excluded because they contained system algorithm problems that were the basis for the retest of Exception 3120," and that approximately 15% of the manually-processed orders reviewed contained "human input errors that could result in a miscalculation of the PIDs." KPMG reaffirmed "that the only way to properly address this observation is to conduct a retest that focuses on orders that drop out for manual handling." *Id.* Because Qwest refused to be subjected to further retesting, KPMG closed Observation 3110 as unresolved.

93. Qwest's attempt to characterize Observation 3110 as "minor" borders on the frivolous. KPMG's finding of an error rate of approximately 15%, coupled with its refusal to close the exception, demonstrates the paucity of Qwest's assertion that the findings in this observation are somehow inconsequential. Clearly, CLECs cannot compete effectively if high percentages of their LSRs are subject to manual processing, and if significant numbers of such manually-processed LSRs are error prone.

94. As the KPMG Final Report also makes clear, because “[t]he ROC Steering Committee was sufficiently concerned about the ability of regulators to monitor Qwest’s performance in the area of manual handling . . . the ROC Steering Committee directed KPMG Consulting to conduct an Adequacy Study of the PIDs related to manual order handling.”<sup>51</sup> As discussed herein, KPMG ultimately found that the PIDs lacked sufficient measures to capture these errors during the manual processing of orders.

95. Because no retesting of Observation 3110 was conducted, KPMG stated that it “was unable to determine” whether Qwest satisfied: (1) Test 14-1-44 – which was designed to evaluate whether Qwest’s ordering and provisioning results were consistent with KPMG’s results for Pseudo CLEC; and (2) Test 12-11-4 – which examined whether Qwest’s pre-order/ordering performance data were consistent with KPMG’s data for the Pseudo CLEC. KPMG Report at 99, 205. Citing the closure of Observation 3110 as unresolved, KPMG also found that it was unable to render any finding as to whether Qwest satisfied Evaluation Criteria 12-8-2 -- which examined whether the “[p]rocedures for processing electronically submitted non-flow-through orders are defined, documented, and followed.” KPMG Final Report at 149-150.

96. In light of KPMG’s findings regarding the extent to which Qwest made errors during the manual processing of orders, as well as KPMG’s inability to determine whether Qwest satisfied test criteria, there is no sound basis upon which Qwest can rationally conclude that the KPMG data reconciliation process validated the accuracy of its performance data.

97. Similarly, KPMG closed Exception 3055 as unresolved before it conducted (or could conduct) retesting of the problem it had uncovered, much less concluded that

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<sup>51</sup> KPMG Final Report at 15-16 (§ 6.3.1.1).

Qwest had resolved the problem satisfactorily. In this exception, KPMG found that Qwest incorrectly assigned disposition and cause ("D/C") codes for repairs on Resale POTS and UNE-P orders.<sup>52</sup> D/C codes are used to identify the nature and source of a trouble condition. KPMG initially found that Qwest incorrectly assigned D/C codes over 38% of the time. After Qwest claimed that it had taken the appropriate steps to correct these errors, KPMG conducted a retest and found that Qwest incorrectly applied the D/C codes in over 11% of the trouble reports. However, Qwest refused to agree to a retest.

98. In its final response to Exception 3055, KPMG stated that it "reaffirmed its response of 01/17/2002 and believes that the results of the retest, still constitute an unsatisfactory result." Relatedly, in Observation 1028 Liberty also found that Qwest incorrectly applied D/C codes to trouble reports.<sup>53</sup> And, as noted above, Liberty closed Observation 1028 even though it never substantiated the effectiveness of Qwest's purported corrective action.<sup>54</sup>

99. Standing alone, the errors captured in Exception 3055 demonstrate that Qwest's claims regarding the integrity of its data cannot be credited. Beyond that, these errors pose a competitive threat because they can have a direct impact on customer service. If Qwest incorrectly identifies the source of a customer's troubles, these types of errors can result in delays in repairs and customer dissatisfaction. Against this backdrop, the absurdity of Qwest's claim that the KPMG data reconciliation validated the accuracy of its data is self evident.

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<sup>52</sup> KPMG Exception 3055, dated September 27, 2001.

<sup>53</sup> See Liberty Reply to Qwest's Response to Observation 1028 dated December 10, 2001 at 1-2.

<sup>54</sup> Liberty Observation 1028 Disposition Report, dated March 1, 2002 at 1.

**D. The CGE&Y PMA Did Not Validate the Accuracy of Qwest's Data.**

100. In its Application, Qwest contends that the CGE&Y PMA examined “all aspects of Qwest’s performance measurement processes, procedures, business rules exclusions, calculation methods and a qualitative assessment of their performance measurement processes.” Williams Decl. ¶ 45 (footnote omitted). Noting that CGE&Y’s final report on the Arizona PMA dated December 21, 2001, found that “Qwest’s performance measure systems and processes...were substantially in compliance with the requirements of the Arizona PID,” Qwest contends that the CGE&Y PMA bolsters its claim that its data are accurate and reliable. Williams Decl. ¶ 45. This argument is equally flawed.

101. The Arizona Corporation Commission retained CGE&Y to serve as the Test Administrator and Hewlett-Packard to serve as the Pseudo-CLEC during third party testing of Qwest’s OSS. The Arizona Master Test Plan (“Arizona MTP”) includes a test section on “Performance Measurement Evaluation [which] consisted of a Performance Measurement Audit (‘PMA’) and Performance Measurement Evaluations (‘PME’) performed during the Functionality and Capacity Tests.”<sup>55</sup> The Arizona Corporate Commission also hired CGE&Y to conduct the PMA.

102. The CGE&Y PMA and PME served two entirely different functions. The CGE&Y PMA was designed to examine “the documentation, data collection processes, calculations and other processes Qwest applied in providing performance measurement information to the CLECs in the state of Arizona.”<sup>56</sup> As part of that process, CGE&Y, using

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<sup>55</sup> CGE&Y Final Report of the Qwest’s OSS Test prepared for Arizona Corporation Commission, March 29, 2002 at 440.

<sup>56</sup>CGE&Y Performance Measurement Audit Final Report, Version 3.0, prepared for Arizona

Qwest's adhoc data sets, was tasked with the responsibility of determining whether Qwest properly applied business rules governing the PIDs when calculating performance results.

Qwest's adhoc data sets are the raw data that Qwest uses to calculate its performance results.

Importantly, during that process, CGE&Y assumed that Qwest's raw input data were accurate.

Despite Qwest's contrary suggestion, the CGE&Y PMA was not designed to and did not verify the accuracy of Qwest's raw input data.

103. The Arizona OSS test contemplated that the accuracy of Qwest's input data would be evaluated during the Functionality and Capacity tests. According to Section 8.5.3 of the MTP, during Functionality and Capacity testing, CGE&Y was required to obtain data from Qwest and the Pseudo-CLEC:

During Functionality Testing and Capacity Testing, Qwest will provide appropriate performance measure data and results. The Test Administrator will verify such data and incorporate the results into the Functionality Testing and Capacity Testing. The Test Administrator will acquire and/or develop data, calculate Functionality and Capacity test results, and validate results of Qwest, Pseudo-CLEC and CLEC analysis.

104. Section 7.3.4 of the TSD also required CGE&Y to "perform an independent calculation of" measures based upon Qwest's raw data and the test Pseudo-CLEC's data and report any discrepancies in these calculations:<sup>57</sup>

During the Functionality Tests, Performance Measurement raw data for the Pseudo-CLEC test orders, trouble reports and other transactions, calculated z statistics and other calculations will be collected from Qwest for all those measurement with a "Yes" indication in the MTP Appendix C. Using the raw data (before exclusions) from Qwest, the TA will perform an independent calculation of all measurements with a "Yes" indication in the

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Corporation Commission, December 21, 2001 at 18.

<sup>57</sup> Test Standards Documents, Section 7.3.4 (emphasis added).

MTP Appendix C and will also perform an independent calculation of the same measurements for the same orders using the Functionality Test Data provided by the Pseudo-CLEC.

The TA will compare Qwest's computed z statistics and other calculations to TA computed z statistics and other calculations (from Qwest's provided raw data) and to TA computed z statistics (from Functionality Test Data collected by the Pseudo-CLEC). Discrepancies in the calculations will be evaluated, documented and reported by the TA.

105. Critically, CGE&Y failed to adhere to the requirements of the MTP and TSD because, *inter alia*, the data necessary to recalculate performance results were not provided by the Pseudo-CLEC. This is a fundamental defect in the CGE&Y test. Section 3.7.5.5 of the Functionality Test, Ordering Exit Criteria (b) required the Pseudo-CLEC to provide to the TA "the required data for each test script." Similarly, Section 5.2.5 of the System Capacity Test Exit Criteria (d) states that "[a]ll of the data associated with the System Capacity Test [must be] captured and retained by the Pseudo-CLEC." In its Final Report CGE&Y admitted that it deviated from the MTP and TSD requirements by failing to calculate results based upon data gathered from the Pseudo-CLEC. CGE&Y Final Report § 2.5.3 at 116.

106. AT&T and other CLECs contended that CGE&Y's failure to adhere to test criteria seriously compromised the test. At the request of the Staff, the testers prepared a PID Data Element Summary report which identified those data elements which were not independently collected by the Pseudo-CLEC.<sup>58</sup> CGE&Y stated that "Functionality Test data captured by the Pseudo-CLEC are insufficient to calculate the performance measurements as defined in the PID." CGE&Y Final Report at 16. According to CGE&Y, 16 data elements which were "required to calculate PID compliant measures" were not independently collected by

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<sup>58</sup>CGE&Y Final Report at 128.



the Pseudo-CLEC. *Id.* at 129. To fill this void in the analysis, CGE&Y substituted Qwest's adhoc data for that which should have been collected from the Pseudo-CLEC. Incredibly, in their joint PID Data Element Summary Report, CGE&Y and HP contended that "[c]alculating PID complaint measures using the Pseudo-CLEC data and Qwest's adhoc data for the missing data elements results in the independent calculation required by the TSD." Joint Report at 4. This argument is circular and nonsensical. The TSD clearly provided that the evaluation of the accuracy of Qwest's raw data inputs should be based upon a comparison of Qwest's raw data against Pseudo-CLEC data. The notion that Qwest's raw data inputs could somehow be validated by calculating results based upon those same raw data inputs is absurd. Thus, the CGE&Y PMA failed to perform the necessary testing to determine whether Qwest's performance data are accurate.

107. In those instances when Pseudo CLEC data were available, CGE&Y compared the Pseudo-CLEC data against Qwest's adhoc data. Remarkably, however, whenever data reconciliation revealed any material discrepancies between the two data sets, CGE&Y "adjusted the Qwest adhoc data to reflect the performance observed by the Pseudo-CLEC ... [and] CGE&Y then used this 'corrected' adhoc data to calculate performance measurement results for the Pseudo-CLEC and included those results in Section 2.5.4."<sup>59</sup> CGE&Y's approach is demonstrably unsound.

108. CGE&Y's admissions that there were "material discrepancies" between the two data sets requiring the correction of Qwest's adhoc data confirm that Qwest's data are inaccurate. Significantly, although CGE&Y conceded that there were "material discrepancies"

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<sup>59</sup> CGE&Y Final Report at 128.

identified during the data reconciliation process, those discrepancies did not result in the issuance of an Incident Work Order ("IWO") to reflect that Qwest's reported performance results did not capture actual performance. This omission violates Section 7.3.4 of the TSD which requires the reporting of each discrepancy and the issuance of an IWO:

The TA will compare Qwest's computed z statistics and other calculations to TA computed z statistics and other calculations (from Qwest provided raw data) and to TA computed z statistics from Functionality Test Data collected by the Pseudo CLEC). Discrepancies in the calculations will be evaluated, documented and reported by the TA.

Problems discovered requiring work by Qwest, will be entered on Incident Work forms and forwarded to the TAG for subsequent prioritization and submittal to Qwest for repair."

109. Against this backdrop, the CGE&Y PMA does not demonstrate and cannot demonstrate that Qwest's performance data are accurate. The CGE&Y PMA was not designed to and did not verify the accuracy of Qwest's raw input data. Verification of the accuracy of Qwest's raw input data inputs should have been conducted as part of the OSS Functionality and Capacity Testing. Unfortunately, however, because the testers failed to comply with the requirements in the MTP and TSD, the accuracy of Qwest's raw data inputs was never validated during that process.

**E. The Current PIDs Omit Important Measures.**

110. The current PIDs on which Qwest relies to support its Application are incomplete because they omit measures which are important in capturing Qwest's actual performance. As noted above, the ROC Steering Committee was sufficiently concerned about Qwest's performance that it directed KPMG to conduct a study on the adequacy of the performance measures to capture Qwest's actual performance in handling manually-processed

orders. KPMG found that Qwest's current PIDs are insufficient because they fail to capture or explicitly identify the impact of Qwest's errors during the manual processing of orders. In its Manual Order Entry Performance Indicator Description Adequacy Study ("Adequacy Study"), KPMG recommended the addition of four new measures to assess Qwest's performance on manually-processed orders. These measures are: Service Order Accuracy; Functional Acknowledgements of Manually Submitted orders; Accuracy of LSR Rejection Notices; and Conformance of FOC Due Dates with the Qwest Service Interval Guide ("SIG"). Because these measures are currently omitted from Qwest's performance measurement plans, important aspects of Qwest's performance in handling manually-processed orders are not currently being measured.

111. When Qwest filed its Application, it had not regularly posted its commercial performance data on service order accuracy. Although Qwest has proposed a new service order accuracy metric (PO-20) and has noted in its Application that it will start reporting data for this metric commencing with its June data, as the accompanying AT&T OSS Declaration explains, Qwest's proposed metric is flawed.<sup>60</sup> In that connection, Qwest concedes that its proposed PO-20 measure is not yet "finalized." Notarianni/Doherty Decl. ¶ 341. The reason why Qwest's proposed service order accuracy measure is not yet "finalized" is because the CLECs have challenged the accuracy of Qwest's proposed PID. As explained in the AT&T OSS Declaration, Qwest's proposed PID does not capture Qwest's performance when inputting two codes commonly used by CLECs on LSRs (*i.e.* universal service order codes and field identifiers).

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<sup>60</sup> As explained in the AT&T OSS Declaration, even under Qwest's flawed definition of manual order accuracy, in June 2002, it made errors on approximately 10% of UNE-P and resale POTS manually-processed orders.